

REMARKS

The Office Action mailed November 19, 2009 has been received and the Examiner's comments carefully reviewed. Claims 1 and 14 have been amended. Claims 30-33 have been added. Support for the amendments and added claims 30-33 is found in the specification, for example, on page 8 at lines 16-20; page 7 at lines 10-16; and page 16 at lines 20-23. No new subject matter has been added.

Claims 1-8, 14-16 and 21-33 are currently pending. Applicants respectfully submit that the pending claims are in condition for allowance.

Rejections Under 35 U.S.C. §102

Claims 21-23 and 26-28 are rejected under 35 U.S.C. §102(a) as being anticipated by Collins (GB 2384704 A). Applicants respectfully traverse this rejection.

A. Handle with Broadened End

Independent claim 21 recites a device having a non-shaving head, a handle, and a joint located between the head and the handle. The handle has a broadened end distal from the head. The Office Action asserts that Collins discloses a handle with a broadened distal end from a head.

Collins discloses a spatula (1) having a handle portion (3) and an operative portion (2). Referring to FIGS. 1 and 4, the spatula "reduces gradually in width" from the operative portion (2) to a rear edge (3a) of the handle. Page 5 at lines 10-12. The handle therefore has a broadened end proximal to the head, not distal from the head, as required by claim 21.

B. Joint with Upward Opening

Independent claim 21 also recites that the joint is defined by a notch having an upward opening. The upward opening closes when a downward force, to effect the removal of a composition, is applied to the handle.

Collins discloses that when the spatula (1) is used to remove a composition, the operative edge (2a) is in an orientation such that the material removed is collected on the

concave surface of the operative portion (2). Page 6 at lines 5-8. Accordingly, the spatula (1) is oriented upside down from the orientation shown in FIG. 3 when used to effect the removal of a composition. In this inverted, composition-removal orientation, the hinge (4) of the spatula (1) has a downward opening, not an upward opening, as required by claim 21.

Because Collins does not meet each and every limitation of claim 21, including a handle with a broadened distal end and a joint with an upward opening, Applicants respectfully submit independent that claim 21 and dependent claims 22-23 and 26-28 are patentable.

C. Rigid Head Construction

Regarding dependent claim 28, the head is required to be substantially rigid. Collins in contrast teaches away from a “spatula formed in more rigid material.” Page 2 at lines 19-21. The operative edge (2a) of the spatula is instead “of sufficient flexibility that the operative edge, in use, conforms to the contours” of the body. Page 2 at lines 15-17. While Collins teaches that the operative edge (2a) of the spatula is “sufficiently rigid” to remove a composition, the rigidity to remove a composition along with the conforming flexibility does not meet the claim requirement of a head that is substantially rigid.

In fact, the Collins device teaches away from spatulas with substantially rigid constructions. (See Collins describing the asserted improvements over conventional spatulas with “relatively rigid plastics material.” Page 1 at lines 30-5.) Evidence of the distinction between “sufficiently rigid to remove a composition” and “substantially rigid” is further provided by the definitions of “sufficiently” and “substantially” in each of the specifications. In particular, the “sufficiently rigid” Flexure Modulus of the Collins spatula is most preferably between 0.2 and 0.25 GPa. Collins, page 3 at lines 13-16. The “substantially rigid” Flexure Modulus of the present device is most preferably between 1.0 and 1.2 GPa. Applicants’ specification, page 7 at lines 10-16.

It is respectfully submitted that the substantial rigidity requirement of claim 28 is not met by the disclosure of Collins.

In the alternative, Applicants have added claim 33 to clarify that the head has a rigid, non-conforming leading edge. Collins clearly teaches away from a non-conforming edge.

Rejections Under 35 U.S.C. §103

Claims 1-8, 14-16, 24-25 and 29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Collins (GB 2384704 A) in view of Hansen (Des. 324,912).

Applicants respectfully traverse this rejection, but have amended claims 1 and 14 to advance this application to allowance. Applicants reserve the right to pursue the original subject matter in a continuing application.

A. Joint with Upward Opening

1. Claims 1-8

Independent claim 1 recites a device having a non-shaving head and a handle. A joint is located between the head and the handle. The joint is defined by an opening oriented upward when used to effect the removal of a composition.

Collins discloses that when the spatula (1) is used to remove a composition, the operative edge (2a) is in an orientation such that the material removed is collected on the concave surface of the operative portion (2). Page 6 at lines 5-8. Accordingly, the spatula (1) is oriented upside down from the orientation shown in FIG. 3 when used to effect the removal of a composition. In this inverted orientation, the hinge (4) of the spatula (1) has a downward opening, not an upward opening, as required by claim 1.

Hansen simply does not disclose a joint, and accordingly does not make up for the above deficiencies of Collins.

At least for this reason, Applicants respectfully submit that independent claim 1 and dependent claims 2-8 are patentable.

2. Claims 14-16

Independent claim 14 recites a device having a non-shaving head and a handle. A joint is located between the head and the handle. The joint has an upward opening that limits articulation of the head with respect to the handle during use in removing a composition.

Collins discloses that when the spatula (1) is used to remove a composition, the operative edge (2a) is in an orientation such that the material removed is collected on the concave surface of the operative portion (2). Page 6 at lines 5-8. Accordingly, the spatula

(1) is oriented upside down from the orientation shown in FIG. 3 when used to effect the removal of a composition. In this inverted orientation, the hinge (4) of the spatula (1) has a downward opening, not an upward opening, as required by claim 14.

Further the downward opening of the Collins hinge (4) does not limit the articulation of the operative portion (2) with respect to the handle (3) when removing a composition. That is, the hinge (4) can continue to open and possibly break as downward force is applied. In contrast, the claimed upward opening closes as downward force is applied, wherein complete closure limits any further articulation.

Hansen simply does not disclose a joint, and accordingly does not make up for the above deficiencies of Collins.

At least for these reasons, Applicants respectfully submit that independent claim 14 and dependent claims 15-16 are patentable.

B. Downward Concave Curvatures of the Head and Handle

1. Claims 1-8

Independent claim 1 recites that both the non-shaving head and the handle of the claimed device have a downward concave curvature profile when used to effect the removal of a composition.

The Office Action suggests that while Collins fails to disclose the operative portion (2) with a downward curvature, it would have been obvious to invert the curvature in light of Hansen; or that inverting the curvature is merely a rearrangement of parts.

It is respectfully submitted that Collins teaches away from a spatula having both a downwardly curving handle (3) and a downwardly curving operative portion (2).

Collins teaches that when the spatula is used to remove a composition, the operative portion (2) is oriented so as to have a downward curvature. Accordingly, the handle (3) then has an upward curvature.

Providing a handle (3) that curves in an opposite direction as the operative portion (2) allows a user to apply more force to the operative portion (2) than would a handle that curves in the same direction as the operative portion (2). In other words and as can be understood with reference to inverted FIG. 3, the downwardly curved operative portion (2), the downward hinge opening (4), and a modified downwardly curved handle (3) results in a

significantly weakened arrangement when a downward force is applied during use. Collins teaches away from such a weakened arrangement, as the device's intended use includes conforming the operative edge (2a) to the contours of the user's shin, for example. The proposed modifications to Collins would result in a device that is too compliant to conform to a user's contours during removal of a composition.

Further, Collins teaches away from such proposed modifications because the modifications would render the device inoperable in its intended use in applying a composition to the skin. Collins teaches that "with the user holding the handle portion (3), . . . [a] composition is applied to and spread evenly over an area of the skin . . . using the operative portion (2) of the spatula (1)." This can only be accomplished by using the convex side of the operative portion (2) to apply and spread the composition, as oriented in FIG. 3. If the handle (3) were modified to have the same curvature as the operative portion (2), the application and spreading of a composition would become quite awkward. For example, it is difficult to imagine how a user would hold an upwardly curved handle when spreading the composition with the operative portion (2) without wrist discomfort. The ergonomics of the spatula, intended to both apply and remove a composition, would be significantly compromised by the proposed modifications.

For this additional reason, Applicants respectfully submit that independent claim 1 and dependent claims 2-8 are patentable.

2. Claims 14-16

Independent claim 14 recites that both the non-shaving head and the handle of the device have a concave curvature profile. For similar reasons as discussed above with regard to claim 1, Applicants respectfully submit that claim 14, and dependent claims 15-16 are patentable.

3. Claim 29

Claim 29 recites that both the non-shaving head and the handle of the device have a curved, concave profile. For similar reasons as discussed above with regard to claim 1, Applicants respectfully submit that claim 29 is patentable.

C. Dependent claims 24-25 and 29

Claims 24, 25 and 29 depend upon claim 21. In view of the remarks regarding independent claim 21, further discussion regarding the independent patentability of dependent claims 24, 25 and 29 is believed to be unnecessary. Applicants submit that dependent claims 24, 25 and 29 are in condition for allowance.

New Claims 30-33

New claims 30 and 31 depend upon claim 1. New claim 32 depends upon claim 14. New claim 33 depends upon claim 21. In light of the above comments regarding claims 1, 14, and 21, Applicants respectfully submit that claims 30-33 are in condition for allowance.

SUMMARY

It is respectfully submitted that each of the presently pending claims (claims 1-8, 14-16 and 21-33) is in condition for allowance and notification to that effect is requested. The Examiner is invited to contact Applicants' representative at the below-listed telephone number if it is believed that prosecution of this application may be assisted thereby.

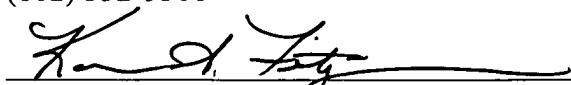
Although certain arguments regarding patentability are set forth herein, there may be other arguments and reasons why the claimed invention is patentably distinct. Applicants reserve the right to raise these arguments in the future.

Respectfully submitted,



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